
United States
Circuit Court of Appeals
For the Ninth Circuit.

ALFRED J. PRITCHARD,

Appellant,

vs.

GEORGE K. McLEOD, THE FAIRHAVEN
WATER COMPANY, a Corporation, JOHN
DOE and RICHARD ROE,

Appellees.

Transcript of Record.

Upon Appeal from the United States District Court for
the District of Alaska, Second Division.

FILED

DEC 30 1912

No. 2206

United States

Circuit Court of Appeals

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ALFRED J. PRITCHARD,

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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[Names and Addresses of] Attorneys of Record.

G. J. LOMEN, Nome, Alaska,

WILLIAM H. GORHAM, 811 First Ave., Seattle,
Wash.,

Attorneys for Plaintiff and Appellant.

IRA D. ORTON, Colman Bldg., Seattle, Wash.,

Attorney for Defendants and Appellees.

*In the District Court for the District of Alaska,
Second Division.*

No. —.

ALFRED J. PRITCHARD,

Plaintiff,

vs.

GEORGE K. McLEOD, THE FAIRHAVEN
WATER COMPANY, a Corporation, JOHN
DOE and RICHARD ROE,

Defendants.

Complaint.

Now comes the plaintiff above named, and complains and alleges as follows:

I.

That the defendant the Fairhaven Water Company is a corporation duly created and organized under the laws of the State of New York, and doing business in the District of Alaska.

II.

That the names of the defendants John Doe and Richard Roe are fictitious, the true names of said defendants being unknown to plaintiff, and plaintiff asks that when their true names are discovered, that

such names be substituted for said fictitious names.

III.

That on or about the 7th day of April, 1908, the above-named plaintiff was, and still is, the owner in fee, subject to the paramount title of the United States, and in the possession of certain real property hereinafter described, and the personal property herein mentioned. [1*]

IV.

That the defendant George K. McLeod, being desirous to purchase said premises and real property, entered into an agreement in writing with the plaintiff, dated on the day last above mentioned; that a copy of said agreement is attached hereto, marked Exhibit "A," and made a part hereof.

V.

That as a part of said agreement, the defendant George K. McLeod made, executed and delivered to said plaintiff the certain promissory notes in said agreement mentioned; that one of said notes was dated New York, April 7th, 1908, wherein and whereby, for value received, said George K. McLeod promised to pay to the order of said plaintiff, on November 6th, 1908, the sum of Fifteen Hundred Dollars (\$1500.00); that the other of said notes was also dated New York, April 7th, 1908, and wherein and whereby said defendant George K. McLeod, for value received, promised to pay to the order of said plaintiff, on the 6th day of April, 1909, the sum of Twenty-five Hundred Dollars (\$2500.00). That plaintiff is the holder of said notes.

*Page-number appearing at foot of page of original certified Record.

VI.

That the defendant then and there paid to the plaintiff the sum of one thousand dollars mentioned in said agreement.

VII.

That the personal property mentioned in said agreement was duly delivered to the said defendant George K. McLeod. That the *lots placer* mining claims and water rights mentioned in said agreement, situated in the Fairhaven Mining and Recording District, District of Alaska, are more particularly known and described as follows: [2]

The Homestake Bench Claim, situate and being on the left limit adjoining the Homestake Creek Claim on Inmachuk River;

The upper one-half of the Nellie Claim, situate and being on Inmachuk River;

The Bradley Fraction, situate and being on the right limit of Inmachuk River;

An undivided one-eighth interest in and to the Croeseus Group, situate and being on the benches on the right limit near the mouth of Candle Creek;

All the interest of the plaintiff in and to that certain water right on Arizona Creek, a tributary of Inmachuk River;

That certain house and lot, situate and being on the sand spit at Deering, Alaska, owned by the plaintiff on April 7th, 1908;

VIII.

That the defendant has neglected and refused to pay the said several sums mentioned in said promissory notes, or any part thereof, and has neglected

and refused to pay twenty-five per cent of the gross output of gold taken from any of the claims mentioned in said agreement, or any part thereof, until the sum of twenty-five thousand dollars should be paid in full, or at all; that it was understood and agreed that said twenty-five thousand dollars mentioned in said agreement should be paid within a reasonable time; that more than a reasonable time has elapsed since the making of said agreement, and that defendant George K. McLeod has neglected to mine said premises or to extract gold therefrom, whereby and on account of which all of said moneys are now due and payable. [3]

IX.

That the plaintiff has always been, and still is, ready and willing to perform the agreement above mentioned on his part, and on being paid the remainder of said purchase money with interest from the date of the filing of this complaint, at the rate of eight per cent per annum, to convey said premises as provided in and by said agreement, and to let the defendant George K. McLeod into the possession of said premises and the rents and profits thereof, from the date of said agreement.

X.

That on the 26th day of July, 1912, in the District of Alaska, the plaintiff duly tendered to the defendant George K. McLeod a deed of the premises above mentioned, but the defendant then, and ever since, has refused to accept the same and to pay to the plaintiff the balance of the purchase money above mentioned.

XI.

That the defendants The Fairhaven Water Company, John Doe and Richard Roe claim some right, title and interest in and to said premises, but that their claims, if any they have, are junior and subordinate to the rights and claims of the plaintiff herein.

WHEREFORE, the plaintiff demands judgment (1) that the defendant George K. McLeod perform said agreement and pay to the plaintiff the sum of twenty-nine thousand dollars, the remainder of said purchase money, with interest thereon from the date of the filing of this complaint, and for the costs and disbursements of this action. (2) That if *the* George K. McLeod will not accept the conveyance and pay said purchase money, then that the premises above [4] mentioned be sold and that the proceeds be applied to the payment of the same with the costs of this action; that the defendant George K. McLeod be required to pay the deficiency, if any.

G. J. LOMEN,
Attorney for Plaintiff.

United States of America,
District of Alaska,
Fairhaven Precinct,—ss.

Alfred J. Pritchard, being first duly sworn, according to law, deposes and says:

That he is the plaintiff named in the foregoing complaint; that he has read the same, knows the contents thereof, and that the same are true as he verily believes.

ALFRED J. PRITCHARD.

Subscribed and sworn to before me this the 9th day of August, 1912.

[Notarial Seal] GEO. D. CAMPBELL,
Notary Public in and for the District of Alaska, Re-
siding at Candle. [5]

Exhibit "A" [to Complaint].

MEMORANDUM OF AGREEMENT made and entered into this seventh (7) day of April, Nineteen hundred and eight (1908) between ALFRED J. PRITCHARD, of Seattle, Washington, the party of the first part, and GEORGE K. McLEOD, 31 Nassan Street, New York, the party of the second part,

WHEREAS, the party of the first part agrees to sell and the party of the second part agrees to buy all the placer mining claims (with the exception of one certain claim in the vicinity of Dearborn Discovery on the Inmachuk), also warehouses, houses, stables, china and centrifugal pumps, boilers, engines, one horse, scows, tents, forges, stoves, hose, belts machinery and tools of every description; camp outfit of every description and lots and water rights owned by said party of the first part in the Fairhaven Mining District, District of Alaska, for the sum of Thirty Thousand Dollars (\$30,000.00) upon the following terms and conditions:

1. One Thousand Dollars (\$1,000) down, the receipt whereof is hereby acknowledged.
2. One Thousand Five Hundred Dollars (\$1,500) note due and payable on November 6th, 1908.
3. Two Thousand Five Hundred Dollars, (\$2,500) note due and payable April 6th, 1909.
4. Twenty-five (25) per cent. of the gross output

of gold taken from any of the claims or fractions of claims sold by the party of the first part to the aforesaid party of the second part to be paid over upon demand to said party of the first part until the sum of Twenty-five Thousand [6] Dollars (\$25,000) is paid in full.

5. That the party of the first part upon his return to Seattle will execute quit claim deeds subject to the conditions of this agreement in favor of said party of the second part to cover aforesaid mentioned placer mining claims, lots, water rights and bill of sale of all personal property above outlined.

6. The proceeds of any articles of camp equipment that have been sold by the agent of the party of the first part previous to the date of this agreement to belong to the party of the first part.

7. The proceeds of any articles that may be sold after the date of this agreement to belong to the party of the second part.

8. That the party of the second part will allow H. I. Dearborn the use of horse to clean up his winter dump.

9. That the party of the first part will execute an order to his agent to turn over everything to the party of the second part.

10. The intent and purpose of this agreement is that the party of the first part sells to party of the second part all his real and personal property of whatsoever nature, kind or description now owned by party of the first part in the said Fairhaven Mining District, District of Alaska, and said party of the first part undertakes to execute all necessary

deeds and transfers when called upon to do so with the sole exception of one placer mining claim near [7] Dearborn's Discovery (so-called) on the lower Innachuk River.

Signed and sealed and delivered the day and year first above written.

(Signed) ALFRED J. PRITCHARD. [Seal]

GEORGE K. McLEOD. [Seal]

In presence of:

GEO. W. CHUYON.

ELFRIEDE V. LOURY.

[Endorsed]: #2392. In the District Court for the District of Alaska, Second Division. Alfred J. Pritchard, Plaintiff, vs. George K. McLeod et al., Defendants. Complaint. Filed in the Office of the Clerk of the District Court of Alaska, Second Division, at Nome. Aug. 14, 1912. John Sundback, Clerk. By _____, Deputy. G. J. Lomen, Atty. for Pltf. [8]

*In the District Court for the District of Alaska,
Second Division.*

No. —

ALFRED J. PRITCHARD,

Plaintiff,

vs.

GEORGE K. McLEOD, THE FAIRHAVEN
WATER COMPANY, a Corporation, JOHN
DOE and RICHARD ROE,

Defendants.

Summons.

The President of the United States of America, to
George K. McLeod, The Fairhaven Water Com-
pany, a Corporation, John Doe and Richard
Roe, Greeting:

You are hereby summoned and required to appear
and answer the complaint of the plaintiff on file in
the office of the clerk of said court, at the city of
Nome, in said District, within thirty days from the
service of this summons upon you, or judgment for
want thereof will be taken against you; and you are
hereby notified that if you fail to answer the said
complaint, the plaintiff will apply to the Court for
the relief demanded in said complaint.

WITNESS the Honorable CORNELIUS D.
MURANE, Judge of the District Court, for the Dis-
trict of Alaska, Second Division, and the seal of said
Court hereto affixed, this the 14th day of August,
1912.

[Court Seal] J. SUNDBACK,
Clerk of the District Court for the District of Alaska,
Second Division.

By J. Allison Bruner,
Deputy Clerk. [9]

United States of America,
District of Alaska,
Second Division,—ss.

I hereby certify that I received the annexed sum-
mons on the 14th day of August, 1912, and thereafter
on the same date I served the same at Nome, Alaska,
upon The Fairhaven Water Company by delivering

to and leaving with George K. McLeod, General Manager of said company, a copy thereof, together with a certified copy of the complaint filed therein; and thereafter on the same date I served the same at Nome, Alaska, upon George K. McLeod, by delivering to and leaving with him a copy thereof, together with a certified copy of the complaint filed therein.

Returned this 14th day of August, 1912.

T. C. POWELL,

United States Marshal.

MARSHAL'S COSTS:

2 Services\$12.00

[Endorsed]: In the District Court for the District of Alaska, Second Division. Alfred J. Pritchard, Plaintiff, vs. George K. McLeod et al., Defendants. Summons. Filed in the Office of the Clerk of the District Court of Alaska, Second Division, at Nome. Aug. 15, 1912. John Sundback, Clerk. By J. A. B., Deputy. G. J. Lomen, Atty. for Pltf. 3410. [10]

*In the District Court for the District of Alaska,
Second Division.*

ALFRED J. PRITCHARD,

Plaintiff,

vs.

GEO. K. McLEOD et al.,

Defendants.

Demurrer [of Geo. K. McLeod].

Comes now Geo. K. McLeod, one of the defendants in the above-entitled action, and demurs to the

plaintiff's complaint filed herein, and for ground of demurrer alleges:

I.

That said complaint does not state facts sufficient to constitute a cause of action against him.

WHEREFORE, said defendant prays that the above-entitled action be dismissed.

IRA D. ORTON,

Attorney for Deft. Geo. K. McLeod. [11]

United States of America,

District of Alaska,—ss.

Due service of the within demurrer is hereby accepted at Nome, Alaska, this 22d day of August, 1912, by receiving a copy thereof.

G. J. LOMEN,

O. D. C.,

Attorney for Plaintiff.

[Endorsed]: #2392. Original. In the District Court for the District of Alaska, Second Division. Alfred J. Pritchard, Plaintiff, vs. Geo. K. McLeod et al., Defendants. Demurrer of Deft. Geo. K. McLeod. Filed in the Office of the Clerk of the District Court of Alaska, Second Division, at Nome. Aug. 22, 1912. John Sundback, Clerk. By _____, Deputy. Ira D. Orton, Attorney for Deft. [12]

*In the District Court for the District of Alaska,
Second Division.*

ALFRED J. PRITCHARD,

Plaintiff,

vs.

GEO. K. McLEOD et al.,

Defendants.

Demurrer [of Fairhaven Water Co.].

Comes now the Fairhaven Water Company, one of the defendants in the above-entitled action, and demurs to the plaintiff's complaint filed herein, and for ground of demurrer alleges:

I.

That said complaint does not state facts sufficient to constitute a cause of action against it.

WHEREFORE, said defendant prays that the above-entitled action be dismissed.

IRA D. ORTON,

Attorney for Deft. Fairhaven Water Co. [13]

United States of America,

District of Alaska,—ss.

Due service of the within demurrer is hereby accepted at Nome, Alaska, this 22d day of _____, 1912, by receiving a copy thereof.

G. J. LOMEN,

O. D. C.,

Attorney for Plaintiff.

[Endorsed]: #2392. In the District Court for the District of Alaska, Second Division. Alfred J. Pritchard, Plaintiff, vs. Geo. K. McLeod et al., De-

fendants. Demurrer of Defendant Fairhaven Water Co. Filed in the Office of the Clerk of the District Court of Alaska, Second Division, at Nome. Aug. 22, 1912. John Sundback, Clerk. By _____, Deputy. Ira D. Orton, Attorney for Deft. [14]

[Minutes—Sept. 4, 1912—Re Order Sustaining Demurrers.]

In the District Court for the District of Alaska, Second Division.

Term Minutes, Special August, 1912, Term, Beginning August 15, 1912.

Wednesday, September 4, 1912, at 10 A. M.

Court convened pursuant to adjournment. Hon. THOMAS R. LYONS, District Judge, presiding.

Upon the convening of court the following proceedings were had:

* * * * *

2392.

PRITCHARD

vs.

McLEOD et al.

The Court having under consideration the demurrers of defendants Geo. K. McLeod and Fairhaven Water Company to the complaint on file herein, made an order sustaining said demurrers. [15]

*In the District Court, District of Alaska, Second
Division.*

ALFRED J. PRITCHARD,

Plaintiff,

vs.

GEORGE K. McLEOD, THE FAIRHAVEN
WATER COMPANY, a Corporation, JOHN
DOE and RICHARD ROE,

Defendants.

Judgment.

The above-entitled action coming on to be heard upon the application of the defendants, Geo. K. McLeod and the Fairhaven Water Co., that judgment be entered herein, and it appearing to the Court that the demurrers of the defendants Geo. K. McLeod and the Fairhaven Water Co. to plaintiff's complaint heretofore filed herein, were on the 4th day of September, 1912, sustained by the Court, and the plaintiff having declined to amend said complaint,

IT IS BY THE COURT ORDERED, ADJUDGED AND DECREED that this action be, and the same is hereby dismissed, to which plaintiff duly excepted.

IT IS FURTHER ordered that the defendants, Geo. K. McLeod and the Fairhaven Water Co., have and recover of and from the plaintiff herein, their costs and disbursements of suit taxed at \$.

Done in open court at Nome, Alaska, this 6th day of September, 1912.

THOMAS R. LYONS,
U. S. District Judge.

[Endorsed]: #2392. In the District Court for the District of Alaska, Second Division. Alfred J. Pritchard, Plaintiff, vs. Geo. K. McLeod et al., Defendants. Judgment. Filed in the Office of the Clerk of the District Court of Alaska, Second Division, at Nome. Sep. 6, 1912. John Sundback, Clerk. By J. A. B., Deputy. Ira D. Orton, Attorney for Defts. Vol. 9, Orders & Judgments, p. 568. [16]

*In the District Court for the District of Alaska,
Second Division.*

ALFRED J. PRITCHARD,

Plaintiff,

vs.

GEORGE K. McLEOD, THE FAIRHAVEN
WATER COMPANY, a Corporation, JOHN
DOE and RICHARD ROE,

Defendants.

Assignment of Errors.

Comes now the plaintiff, Alfred J. Pritchard, and assigns the following errors upon which he will rely in prosecuting his appeal from the final judgment in the above-entitled action, to the Circuit Court of Appeals for the Ninth Circuit.

FIRST: The Court erred in sustaining the demurrer of the defendants, George K. McLeod and of the Fairhaven Water Company.

SECOND: The Court erred in filing and entering its final decree and judgment dismissing said action in favor of said defendants and against the plaintiff, over the objection of plaintiff.

WHEREFORE said plaintiff prays that said judgment of the District Court for the District of Alaska, Second Division, be reversed and set aside.

G. J. LOMEN,

Attorney for Plaintiff.

Due service of the foregoing assignment of errors is hereby acknowledged at Nome, Alaska, by receipt of copy, this 21st day of October, 1912.

IRA D. ORTON,

Attorney for Defendants. [17]

[Endorsed]: No. 2392. In the District Court for the District of Alaska, Second Division. Alfred J. Pritchard, Plaintiff, vs. George K. McLeod et al., Defendants. Assignment of Errors. Filed in the Office of the Clerk of the District Court of Alaska, Second Division, at Nome. Oct. 21, 1912. John Sundback, Clerk. By J. A. B., Deputy. G. J. Lomen, Attorney for Plaintiff, Nome, Alaska. [18]

*In the District Court for the District of Alaska,
Second Division.*

ALFRED J. PRITCHARD,

Plaintiff,

vs.

GEORGE K. McLEOD, THE FAIRHAVEN
WATER COMPANY, a Corporation, JOHN
DOE and RICHARD ROE,

Defendants.

Petition for an Order Allowing Appeal.

Comes now the plaintiff above named, and feeling himself aggrieved by the final judgment and decree

made and entered in the above-entitled cause on the 6th day of September, 1912, dismissing said action in favor of said defendants and against said plaintiff, does hereby appeal from said final judgment and decree, and from the whole and every part thereof, to the United States Circuit Court of Appeals for the Ninth Circuit, and prays that this his appeal may be allowed. That a transcript of the proceedings upon which the said judgment and decree was made, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit.

Appellant further prays for an order fixing the amount of costs and appeal bond to be given by said appellant upon said appeal.

Dated at Nome, Alaska, this 21st day of October, 1912.

G. J. LOMEN,
Attorney for Plaintiff.

Service of the above and foregoing petition is hereby admitted by receipt of copy this 21st day of October, 1912.

IRA D. ORTON,
Attorney for Defendant. [19]

[Endorsed]: No. 2392. In the District Court for the District of Alaska, Second Division. Alfred J. Pritchard, Plaintiff, vs. George K. McLeod et al., Defendants. Petition for an Order Allowing Appeal. Filed in the Office of the Clerk of the District Court of Alaska, Second Division, at Nome. Oct. 21, 1912. John Sundback, Clerk. By J. A. B., Deputy. G. J. Lomen, Attorney for Plaintiff. Nome, Alaska.

*In the District Court for the District of Alaska,
Second Division.*

ALFRED J. PRITCHARD,

Plaintiff,

vs.

GEORGE K. McLEOD, THE FAIRHAVEN
WATER COMPANY, a Corporation, JOHN
DOE and RICHARD ROE,

Defendants.

Order Allowing Appeal and Fixing Amount of Bond.

Upon motion of G. J. Lomen, attorney for plaintiff above named, it is

ORDERED that an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the final judgment and decree heretofore filed and entered upon the 6th day of September, 1912, be, and is hereby allowed, and that a certified transcript of the records, orders and proceedings herein, be forthwith transmitted to the United States Circuit Court of Appeals for the Ninth Circuit, and it is further

ORDERED that a bond be given by the plaintiff to the defendant in the sum of two hundred and fifty dollars.

Done in open court this the 21st day of October, 1912.

CORNELIUS D. MURANE,

District Judge.

Service of the above order is hereby admitted by receipt of copy this 21st day of October, 1912.

IRA D. ORTON,

Attorney for Defendants. [21]

[Endorsed]: No. 2392. In the District Court for the District of Alaska, Second Division. Alfred J. Pritchard, Plaintiff, vs. George K. McLeod et al., Defendants. Order Allowing Appeal and Fixing Amount of Bond. Filed in the Office of the Clerk of the District Court of Alaska, Second Division, at Nome. Oct. 21, 1912. John Sundback, Clerk. By J. A. B., Deputy. G. J. Lomen, Attorney for Plaintiff. Nome, Alaska. [22]

In the District Court for the District of Alaska, Second Division.

ALFRED J. PRITCHARD,

Plaintiff,

vs.

GEO. K. McLEOD, THE FAIRHAVEN WATER COMPANY, a Corporation, JOHN DOE and RICHARD ROE,

Defendants.

Undertaking.

KNOW ALL MEN BY THESE PRESENTS, that we, Alfred J. Pritchard, as principal, and J. H. Mustard and Jafet Lindeberg, sureties, are held and firmly bound unto the defendants above named in the sum of two hundred and fifty dollars, to be paid to the said defendants, their heirs, executors or assigns, the payment of which well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, administrators and assigns, firmly by these presents.

Sealed with our seals and dated this 21st day of October, 1912.

The condition of the above undertaking and obligation is,

THAT WHEREAS the above-named plaintiff, Alfred J. Pritchard, is about to file his petition for an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, to reverse the judgment of dismissal in [23] the above-entitled action rendered by the District Court for the District of Alaska, Second Division, on the 6th day of September, 1912, and

WHEREAS the said plaintiff desires to secure the defendants in the payment of its costs, now

THEREFORE, if the above-named plaintiff, Alfred J. Pritchard, shall prosecute the said appeal to effect, and answer all costs and damages if he fail to make good his appeal, and shall pay or cause to be paid to the said defendants, their heirs, successors, administrators and assigns, all damages which they shall suffer by reason of said appeal if the same should be wrongful or without sufficient cause; then this obligation to be void, otherwise to remain in full force and effect.

ALFRED J. PRITCHARD,

Principal.

J. H. MUSTARD,

JAFET LINDEBERG,

Sureties.

United States of America,
District of Alaska,—ss.

J. H. Mustard and Jafet Lindeberg, being first

duly sworn, each for himself, deposes and says:

That I am one of the sureties named in the above [24] undertaking, and am a resident of the District of Alaska. That I am not an attorney at law, marshal, deputy marshal, clerk of any court, or other officer of any court, and am worth the sum of five hundred dollars over and above all just debts and liabilities, and exclusive of property exempt from execution.

J. H. MUSTARD.

JAFET LINDEBERG.

Subscribed and sworn to before me this the 21st day of October, 1912.

[Seal]

G. J. LOMEN,

Notary Public in and for the District of Alaska.

ORDERED: That the above and foregoing undertaking, and the sureties therein named, are hereby approved this 21st day of October, 1912.

Done in open court this 21st day of October, 1912.

CORNELIUS D. MURANE,

District Judge.

[Endorsed]: No. 2392. In the District Court for the District of Alaska, Second Division. Alfred J. Pritchard, Plaintiff, vs. Geo. K. McLeod et al., Defendants. Undertaking. Filed in the Office of the Clerk of the District Court of Alaska, Second Division, at Nome. Oct. 21, 1912. John Sundback, Clerk. By _____, Deputy. G. J. Lomen, Attorney for Plaintiff. Nome, Alaska. [25]

UNITED STATES OF AMERICA.

District Court, District of Alaska, ———— Division.

Cause No. ———.

ALFRED J. PRITCHARD,

Plaintiff,

vs.

GEO. K. McLEOD et al.,

Defendants.

Praecipe [for Certified Copy of Record].

To the Clerk of the Above-entitled Court:

You will please make and send to the Clerk of the Circuit Court of Appeals certified copy of record in the above-entitled action, including pleadings, judgment and minute order sustaining demurrers, also of all appeal papers, including original citation and order enlarging time to file record on appeal.

G. J. LOMEN,

Atty. for Plff.

[Endorsed]: Cause No. 2392. District Court, District of Alaska, 2nd Division. Alfred J. Pritchard, Plaintiff, vs. Geo. K. McLeod et al., Defendants. Praecipe. Filed in the office of the Clerk of the District Court of Alaska, Second Division, at Nome. Oct. 21, 1912. John Sundback, Clerk. By J. A. B., Deputy. G. J. Lomen, Atty. for Plff. Nome, Alaska. [26]

*In the District Court for the District of Alaska,
Second Division.*

No. 2392.

ALFRED J. PRITCHARD,

Plaintiff,

vs.

GEORGE K. McLEOD, THE FAIRHAVEN
WATER COMPANY, a Corporation, JOHN
DOE and RICHARD ROE,

Defendants.

**Certificate [of Clerk U. S. District Court to Record,
etc.].**

I, John Sundback, Clerk of the District Court of Alaska, Second Division, do hereby certify that the foregoing typewritten pages, from 1 to 26, inclusive, are a true and exact transcript of the Complaint, Summons, Demurrer of Defendant Geo. K. McLeod, Demurrer of Defendant Fairhaven Water Co., Court Minutes of September 4, 1912 (Sustaining Demurrers), Judgment, Assignment of Errors, Petition for an Order Allowing Appeal, Order Allowing Appeal and Fixing Amount of Bond, Undertaking and Praecipe for Transcript on Appeal, in the case of Alfred J. Pritchard, Plaintiff, vs. George K. McLeod et al., Defendants, No. 2392-Civil, this Court, and of the whole thereof, as appears from the records and files in my office at Nome, Alaska; and further certify that the original Citation and Order Enlarging Time to File Record in the above-entitled cause are attached to this transcript.

Cost of Transcript \$9.05, paid by G. J. Lomen, Attorney for Plaintiff.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 24th day of October, A. D. 1912.

J. SUNDBACK,
Clerk. [27]

*In the District Court for the District of Alaska,
Second Division.*

ALFRED J. PRITCHARD,
Plaintiff,

vs.

GEORGE K. McLEOD, THE FAIRHAVEN
WATER COMPANY, a Corporation, JOHN
DOE and RICHARD ROE,
Defendants.

Citation.

United States of America,
District of Alaska,—ss.

The President of the United States of America, to
George K. McLeod, The Fairhaven Water Com-
pany, a Corporation, John Doe and Richard
Roe, Defendants, Greeting;

You and each of you are hereby cited and admon-
ished to be and appear at the United States Circuit
Court of Appeals for the Ninth Circuit, to be held
at the city of San Francisco, in the State of Cali-
fornia, within thirty days from the date of this Cita-
tion, on the 20 day of November, 1912, pursuant to
an order allowing appeal, entered in the office of the

clerk of the United States District Court for the District of Alaska, Second Division, from the final judgment and decree filed and entered therein on the 6th day of September, 1912, in that certain suit wherein you, the said George K. McLeod, The [28] Fairhaven Water Company, John Doe and Richard Roe, were defendants, and Alfred J. Pritchard was plaintiff, to show cause, if any there be, why the said final judgment and decree rendered against said plaintiff in said order allowing appeal mentioned should not be granted and why speedy justice should not be done to the parties in that behalf.

WITNESS the Honorable EDWARD D. WHITE, Chief Justice of the Supreme Court of the United States of America, this 21st day of October, 1912.

CORNELIUS D. MURANE,
District Judge.

Attest my hand and seal of the United States District Court for the District of Alaska, Second Division, at the Clerk's office at Nome, Alaska, this 21st day of October, 1912.

[Seal] J. SUNDBACK,
Clerk of the United States District Court for the District of Alaska, Second Division.

J. Allison Bruner,
Deputy.

Service of the above and foregoing Citation is hereby acknowledged by receipt of Copy, this 21st day of October, 1912.

IRA D. ORTON,
Attorney for Defendants. [29]

[Endorsed]: No. 2392. In the District Court for the District of Alaska, Second Division. Alfred J. Pritchard, Plaintiff, vs. George K. McLeod et al., Defendants. Citation. [30]

*In the District Court for the District of Alaska,
Second Division.*

ALFRED J. PRITCHARD,

Plaintiff,

vs.

GEORGE K. McLEOD, THE FAIRHAVEN
WATER COMPANY, a Corporation, JOHN
DOE and RICHARD ROE,

Defendants.

**Order Enlarging Time to [Dec. 21, 1912, to] File
Record, etc.**

On motion of G. J. Lomen, attorney for plaintiff above named, and good cause appearing to the Court therefor, it is hereby

ORDERED that the time for filing and docketing the transcript and record in the above-entitled cause in the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, is hereby extended to and until the 21st day of December, 1912.

Done in open court this the 21st day of October, 1912.

CORNELIUS D. MURANE,

District Judge.

Service of the foregoing order is hereby admitted this 21st day of October, 1912.

IRA D. ORTON,
Attorney for Defendants. [31]

[Endorsed]: No. 2392. In the District Court for the District of Alaska, Second Division. Alfred J. Pritchard, Plaintiff, vs. George K. McLeod et al., Defendants. Order Enlarging Term to File Record. Filed in the Office of the Clerk of the District Court of Alaska, Second Division at Nome. Oct. 21, 1912. John Sundback, Clerk. By J. A. B., Deputy. [32]

[Endorsed]: No. 2206. United States Circuit Court of Appeals for the Ninth Circuit. Alfred J. Pritchard, Appellant, vs. George K. McLeod, The Fairhaven Water Company, a Corporation, John Doe and Richard Roe, Appellees. Transcript of Record. Upon Appeal from the United States District Court for the District of Alaska, Second Division.

Received November 8, 1912.

F. D. MONCKTON,
Clerk.

Filed December 12, 1912.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.

